

### **REMARKS**

Claim 9 has been amended to address the objection.

Claims 1-3, 6, 7 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over EP1101430 ("EP '430") in view of U.S. Patent No. 5,242,702 to Fond. It is respectfully submitted that claims 1-3, 6, 7 and 9 are not unpatentable over EP '430 in view of Fond.

EP '430 does not disclose a cartridge having "one or more passages being formed between the filter and the top of the cartridge, which one or more passages communicate with an outlet of the cartridge on an opposite side of the filter from the top of the cartridge via an exit path separated from the storage chamber," as presently recited in claim 1, and claims 2, 3, 6, 7 and 9 dependent therefrom. Instead, with reference to Figures 7 and 8 of EP '430, fluid from the region above the porous membrane 18 has to flow through the brewing chamber 28 and the coffee present on top of the filter 16 to get to the region below the filter 16.

Claims 15-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over EP1042978 ("EP '978") in view of Fond. It is respectfully submitted that claims 15-17 are not unpatentable over EP '978 in view of Fond.

EP '978 does not disclose a cylindrical extension disposed on an opposite side of the cartridge from an inlet of the cartridge, as presently recited in claim 15, from which claims 16 and 17 depend. Instead, EP '978 discloses apertures 26 in an inlet wall 20, the same inlet wall 26 having what the Office action asserts in a cylindrical extension.

Claim 14 was rejected under 35 U.S.C. 103(a) as being unpatentable over EP '430 in view of Fond and further in view of EP0638486 ("EP '486"). Given the above discussion of claim 1, from which claim 14 depends, with respect to EP '430, it is respectfully submitted that claim 14 is not unpatentable over EP '430 in view of Fond and further in view of EP '486.

For the reasons set forth above, claims 1-3, 6, 7, 9 and 14-17 are believed to be allowable, and reconsideration of claims 1-3, 6, 7, 9 and 14-17 and allowance of claims 1-3, 6, 7, 9 and 14-22 are respectfully requested.

Application No. 10/763,761  
Amendment dated March 30, 2007  
Reply to the Office action of November 30, 2006

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

Date: March 30, 2007

/Jon A. Birmingham/

Jon A. Birmingham

Registration No. 51,222

FITCH, EVEN, TABIN & FLANNERY  
120 S. LaSalle Street, Suite 1600  
Chicago, Illinois 60603-3406  
Telephone: 312.577.7000  
Facsimile: 312.577.7007

469141